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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ESTREMSKY, SHERRY LYNN

ART UNIT PAPER NUMBER

3681

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/809,348	Applicant(s) CLAAR ET AL.	
	Examiner Sherry L. Estremsky	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 12-15, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 5, 9-11, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informality: "the antilock brake system" should be --an antilock brake system-- since no antilock brake system was previously claimed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 claims a method for stabilizing a vehicle, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 4, 6-8, 12, 13, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Jonner, U. S. Patent 5,322,355.

Jonner discloses a device (represented by the figure) for stabilizing a vehicle having an engine and an automatic transmission for driving drive wheels of a first axle (column 2, line 14). The transmission has a free-wheeling, neutral, position for interrupting the force flux between the drive wheels and the engine. The device includes rotation-sensing wheel sensors 1, 2, 3, and 4 on the drive wheels and on wheels of a second axle of the vehicle (column 2, lines 10-14). A gear shift, either electric or hydraulic, shifts the transmission into the free-wheeling position when it is determined, using at least one of the rotation-sensing wheel sensors, that at least one wheel of the second axle is locked or expected to lock (block 22; column 2, lines 21-25 and 64-66). The purpose of the invention is, at least in part, to reduce the driving torque on the driven wheel set when conditions exist that indicate locking of the non-driven (front) wheels (column 1, lines 16-29).

(claims 1 and 19, as best understood)

The drive wheels are not locked before the transmission shifts into the free-wheeling position owing to the drive effect of the engine (column 1, lines 20-23 and column 2, line 50, discussing the driven wheels not being controlled by the anti-skid brake control system).

(claim 2)

Evaluation circuit 5 is a controller for actuating an engine controller of the engine, represented by blocks 17, 18, 19, and 20, the controller commanding a reduction in an engine

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power output at least one of before and during the shifting of the transmission into the free-wheeling position (column 2, lines 55-60).

(claim 3)

Speed determiner 5a determines a speed of the vehicle, and the gear shift shifts the transmission into the free-wheeling position below a predetermined speed (25 km/h) of the vehicle (column 2, lines 45-46).

(claim 4)

The gear shift shifts the transmission into the free-wheeling position as a function of a control signal 14a/14b of the antilock brake system of the vehicle (column 2, lines 39-44 and lines 48-50)

(claim 6)

The control signal that reaches circuit point 15 is a function of control signals (given to lines 14a and 14b) of the antilock brake system and also signals deactivation of the antilock brake system below a predetermined speed of the vehicle, 25 km/h (column 2, lines 45-46 and 52-54).

(claim 7)

A braking deceleration sensor 11 which senses a braking deceleration of the vehicle, and the gear shift shifts the transmission into the free-wheeling position as a function of the sensed braking deceleration (column 2, lines 29-35 and 46-47).

(claim 8)

The second axle, the front axle, is not driven by the engine (column 2, lines 52-53).

(claim 12)

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The first axle, the driven axle, is the rear axle and the second axle is the front axle of the vehicle (column 2, lines 13-14 and 52-53).
(claim 13)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 14, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jonner in view of Magnusson, U. S. Patent 4,467,427.

Jonner discloses a device for stabilizing a vehicle as discussed above in the rejections of claims 1 and 3, but does not disclose that the controller includes program code or that the transmission is shifted into a drive position above a predetermined speed or when the at least one wheel of the second axle no longer locks or is no longer expected to lock.

Magnusson discloses a device for stabilizing a vehicle by shifting the transmission to a free-wheeling position when it is judged that at least one wheel has locked according to an acceleration value exceeding a predetermined retardation value (figure 3, steps 33-36; column 3, lines 56-65)

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The gear shift shifts the transmission into a drive position above a predetermined speed, since in figure 3 the step 46, in which an appropriate drive gear ratio is selected, is reached when the last detected speed exceeds a predetermined value so that comparing step 41 is "no" (column 4, lines 24-27, 30-32).

(claim 14)

The gear shifts the transmission out of the free-wheeling position after the at least one wheel no longer locks, as indicated by a "no" determination in step 33 (column 4, lines 43-46, referring to the existence of conditions leading to step 46, including the "no" determination in step 33). Note that in the "Background of the Invention", the prior art is disclosed as shifting the transmission out of the free-wheeling position after a predetermined time period (column 1, lines 21-27).

(claim 15)

A controller shown in figure 1 includes program code executed by a transmission controller (column 3, lines 37-42).

(claim 18)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Jonner to include program code executed by a transmission controller which shifts the transmission into a drive position above a predetermined speed and when the at least one wheel no longer locks in view of Magnusson because such a system prevents an unsuitable gear selection, improving mechanical and traffic safety (Magnusson, column 1, lines 27-50).

Allowable Subject Matter

8. Claims 5, 9-11, 16, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent 4,491,919 (Leiber) January 1985 - discloses a control system which shifts the transmission to a free-wheeling position when the wheels lock during braking.

U. S. Patent 4,899,279 (Cote et al.) February 1990 - discloses a system which, upon sensing of a wheel lockup, "causes the vehicle clutch, or other completely disengageable coupling, to be and to remain disengaged and ceases all gear changing operations" to allow the wheels to come to the vehicle speed.

JP 60-184752 (Nagaoka et al.) September 1985 - discloses a system which sets the transmission to a neutral position when wheel slip is detected according to a comparison between front wheel and rear wheel speeds.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherry L. Estremsky whose telephone number is (571) 272-7090. The examiner can normally be reached on Tuesday and Friday from 7:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SHERRY ESTREMSKY
PRIMARY EXAMINER
AU3681 8-5-05